



# The FAIR CONTRACTOR

A Publication of the Foundation for Fair Contracting of Massachusetts

A CONSTRUCTION INDUSTRY  
LABOR-MANAGEMENT  
ORGANIZATION

Winter, 2004

Volume 8, Issue 4

## Percor Nabbed by AG, Must Pay \$70K to Workers

Percor Inc., a construction company based in Lunenburg, MA, must pay employees more than \$70,000 in back wages, after the Attorney General found that the company violated the state's prevailing wage law.

The company and its owner, Victor Perez, must pay back wages to 28 employees who were employed on bridge and viaduct repair projects. According to the Attorney General's Fair Labor and Business Practices Division, the workers were being paid as much as \$12 less per hour than what the state's prevailing wage requires. As part of the settlement, Perez admitted that he had intentionally violated the law. In addition to the back wages owed to the employees, Perez must also pay a \$6,500 fine.

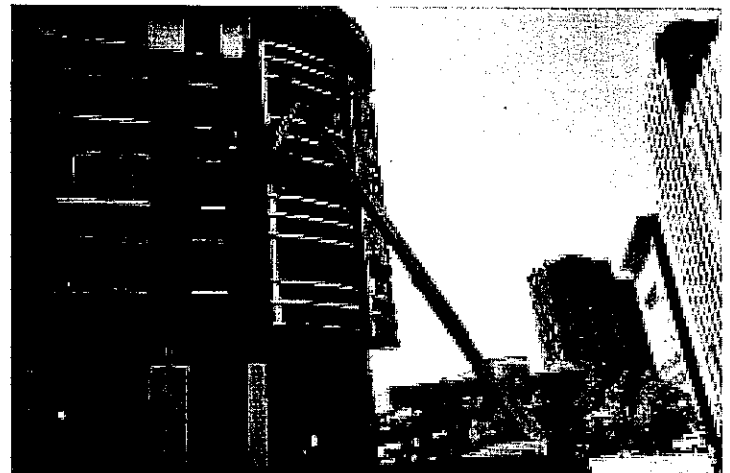
The violations occurred between September of 2001 and August of 2003 while Percor, Inc. was employed on numerous highway repair projects throughout the state, including Westport, New Bedford, Boston, Palmer, Saugus and Worcester.

"It's gratifying to see Percor brought to justice. Between an individual worker calling us and an anonymous tip, the fuel was there for the workers to stick up for themselves. Hats off to the AG," said the FFCM's Christopher Burger.

Inspector Jeffrey Ambrose investigated the case for the AG's office.

## Mass. Board Rules: All Employees Eligible for Workers' Comp-- Regardless of Legal Status

In a much anticipated decision, the Massachusetts Board of Industrial Accidents has ruled that an undocumented Mexican immigrant, injured three years ago while working on the Big Dig, is eligible to receive workers' compensation. In December, the board ruled that workers injured on the job are guaranteed benefits regardless of their immigration status.



The Massachusetts D/A ruling enables undocumented workers who are hurt on the job to collect benefits.

After a construction accident left him fully disabled in 2000, the worker filed for workers' compensation, only to have his employer, Cashman KPA, maintain that his legal status, something that Cashman presumably knew about, made him ineligible to receive benefits. In filing the claim, Cashman relied on a 2002 Supreme Court ruling that denied back wages to an undocumented worker who'd been fired during a union organizing drive.

Continued on back page.

2

Hall of  
Shame

Maintenance  
Jobs

3

FFCM  
By the  
Numbers

4

## Springfield Plumbing Company Must Repay Employees \$30,000

Agawam-based Langone Plumbing and Heating Supply, Inc. and its owner, Ellis Langone, must pay 19 employees a total of \$30,626, according to the Attorney General's office. The company must also pay \$6,000 in fines to settle charges that it violated the state's prevailing wage law. Workers will receive between \$10 and \$3,000 depending on the type of violation and how long the employees worked on public projects. Thirteen employees are owed more than \$1,000.

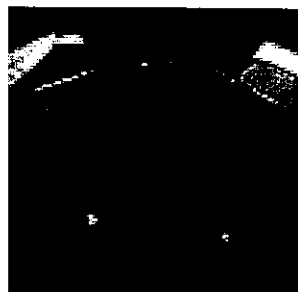
The employees worked as pipe layers, operators and truck drivers for the company on public works construction projects in Westfield and Springfield from May 2001 to December 2002.

Art Butler, the Western Massachusetts monitor for the Foundation for Fair Contracting noticed that the workers were not receiving the prevailing wage during a routine examination of payroll records. "It was obvious that there was a problem. Now the workers are getting the money they are owed," says Butler. "That's good to see."

The case was investigated by Inspector Steven Spencer of the AG's office.

**Fleet Environmental** and its owner, **Robert Zammito** of Randolph, MA, must pay \$407 after failing to pay three workers the prevailing wage on the Stoneham Colonial Park public works project. The FFCM transmitted the case to The AG's office, which also determined that Fleet had failed to submit true and accurate payrolls while employed on the project. Jeffrey Ambrose investigated the case for the AG's office.

**Energy Systems Services** of Marlboro, MA, has been made to pay more than \$53,000 after the AG determined that the company was falsely categorizing employees as apprentices, even though its apprenticeship program had been canceled by the state in 2001. In 2002, the FFCM notified the AG's office that Energy Systems Services was still listing employees as apprentices. Robert Lamarre investigated the case for the AG's office.



## Contractor Hall of Shame

**Airpro Mechanical** and its owner, **Stephen Caldarone**, must pay four public construction workers a total of \$14,693 after failing to pay them the legally required wage on the Holliston High School public works project. Airpro was also fined for failing to submit true and accurate certified payroll records for more than a year while working on the project. One of the workers contacted the Foundation for Fair Contracting after receiving a mailing alerting him to the possibility of abuse on the job. Greg Reutlinger investigated the case for the Attorney General's office.

**Franny's Landscape Co.** and its owner, **Francis Venuto, Jr.** of Framingham, must pay 27 laborers more than \$17,000 after underpaying them on the Fitzgerald School public works project in Cambridge, MA. One of the workers who received restitution contacted the FFCM to complain about the contractor. The AG's office also determined that Franny's had failed to submit weekly certified payroll records to the awarding authority as required by law. Robert Lamarre investigated the case for the AG's office.

**All State Roofing Company** and its owner **James Terault** must pay \$12,163 to four workers who were underpaid for two months while employed on the Berkshire Community College public works project. One of the workers contacted FFCM Western Massachusetts monitor Art Butler after receiving a mailing and filed a complaint with the AG's office with his assistance. Robert Lamarre investigated the case for the AG's office.

**Shannon Construction** and owner Lawrence Moloney must pay \$1000 for intentionally failing to submit payroll records on the Rockland/Abington Water Main project. The FFCM transmitted the case to the AG's office, where it was investigated by Mario Pavia.



The Fair Contractor is a publication of the non-profit Foundation for Fair Contracting of Massachusetts. The FFCM mailing address is Box 256, State House Station, Boston, MA 02133. The Fair Contractor accepts letters to the editor. For information, call 1-800-224-FAIR or write [www.ffcm.org](http://www.ffcm.org).

# Submitting Payroll Records: It's the Law

The state of Massachusetts requires that public works contractors submit payroll records every week in order to ensure that construction workers are receiving the legally required wage. If they fail to do so, they'll be fined by the AG's office. Contractors who are cited three times will be barred from bidding on public works projects. The following contractors failed to submit certified payroll records:

**D.C. Masonry and Sons** and owner, **Douglas Caverly**; UMass/Mullen Center project.

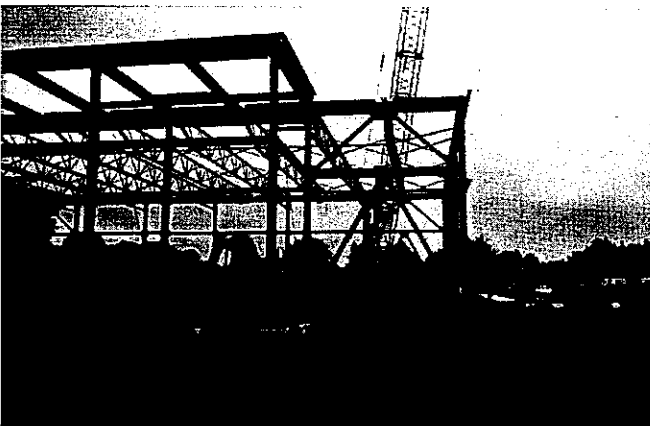
**NEED, Inc.** and owner, **James F. McGuinness**; Falmouth Mullen Hall Elementary School public works project.

**Northern Foundations**, and owner, **Joseph Kroboth**; Lenox Public Library project.

**Statewide Mechanical Contracting, Inc.**, and owner, **Daniel Dickson**; Westfield State College project.

**Tristano Restoration**, and owner, **David A. Panarelli**; Worcester Public Library project.

**Northeast Pile Driving Co.**, and owner, **Christopher Roy**; UMass/Mullen Center project.



Don't let legal violations cloud your future. Learn more about Massachusetts public construction law by calling the Foundation for Fair Contracting. 1-800-224-FAIR

## Emergency or Maintenance Jobs? Prevailing Wage Laws Still Apply

Many contractors (not to mention more than a few cities and towns) have the impression that emergency jobs are exempt from state and federal prevailing wage laws. Whether a result of faulty information or a wilful desire to skirt the law, these contractors and awarding authorities maintain that prevailing wage laws apply only to public construction jobs over a certain monetary threshold.

They're wrong. Massachusetts law explicitly states that public construction workers employed on emergency and maintenance jobs must be paid the prevailing wage. What's more, even those projects that are exempt from bidding aren't necessarily exempt from prevailing wage laws.

In recent months, the Foundation for Fair Contracting has heard from workers who have received far less than the prevailing wage on such jobs. Claims have since been filed with the Attorney General's office, and the workers may be entitled to thousands of dollars in back wages from their employers. Here's how to avoid a similar fate:

- Check with the awarding authority to make sure that rate sheets have been requested. Rates apply to *any* construction, maintenance, installation, or repair job by a public agency.
- Submit certified payrolls to the awarding authority on any public construction project.
- Pay workers the prevailing wage on small projects and emergency jobs.  
*Remember--there is no dollar threshold that must be met before the prevailing wage law applies.*
- Call the Foundation for Fair Contracting. *Have questions about the prevailing wage law? Let our team of prevailing wage experts supply the answers. Call 1-800-224-FAIR for more information.*

## Workers' Compensation Ruling

from front cover

Worker advocates expressed concern in recent months that denying workers' compensation to undocumented workers would weaken the system and encourage contractors to become even more reliant on workers with few enforceable rights. "This would have been a terrible precedent," says FFCM director Karen Courtney. "With its ruling, the DIA is helping to ensure that the workers' compensation system protects all workers."

Recent years have seen a dramatic influx of undocumented workers into public construction in Massachusetts. Unscrupulous contractors often prey on such workers, taking advantage of their limited knowledge about wage laws--and their fear of deportation--by paying them far below the legally-mandated wage.

In one recent case, the Attorney General's office ordered painting contractors in Malden and Dracut to pay more than \$55,000 after they underpaid four Brazilian immigrants on a public works project at UMass Dartmouth. Some of the workers contacted the FFCM to complain that they were being paid as little as \$8 an hour.

FFCM director Courtney says that the FFCM is seeing increasing evidence that contractors in multiple construction fields are hiring undocumented workers to skirt state and federal law. "We're hearing about painters, landscapers, carpenters, laborers. Some contractors have figured out that they can make a lot of money by abusing workers with few rights. This is a problem that isn't going to go away."

## FFCM: By the Numbers

In 2003, the FFCM reported 138 of violations on public work projects. They included:

- 45 cases of non-payment of prevailing wage
- 22 cases of incomplete payrolls
- 14 cases of apprenticeship related violations
- 10 cases of misclassification of workers
- 9 cases of failure to submit payrolls
- 7 cases of benefits violations
- 6 cases of bidding irregularities
- 5 cases of REO violations
- 5 cases of refusal to release payrolls
- 4 cases of irresponsibly low bids
- 3 cases of under-reported hours
- 2 cases of non payment of overtime

PRE-SORTED  
STANDARD  
U.S. POSTAGE  
PAID  
BOSTON, MA  
Permit No. 52213

The Fair Contractor  
The Foundation for  
Fair Contracting  
P.O. Box 256  
State House Station  
Boston, MA 02133